



## KENTUCKY BOARD OF PHYSICAL THERAPY

**Steven L. Beshear**  
Governor

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**Scott D. Majors**  
Executive Director

February 14, 2014

Jane Driskell, State Budget Director  
Office of State Budget Director  
284 Capitol Annex  
702 Capitol Avenue  
Frankfort, KY 40601

RE: Governor's Recommended Budget for FY 2014-2016

Dear Director Driskell:

As you are aware, Governor Steven Beshear presented his 2014-2016 biennium budget address to a joint session of legislators on January 21, 2014. To help meet the budgetary requirements for other state programs, the Governor announced a 5 percent cut to the budgets for state agencies. The Kentucky Board of Physical Therapy ("Board") received notice the following day from our assigned budget analyst with your office that the Governor's budget, if approved, would transfer \$100,000 from the Board's budget in FY 2015 and another \$100,000 from the Board's budget in FY 2016. These recommended fund transfers come on the heels of the General Assembly's transfers of Board funds in 2009 which totaled \$175,000.

To address this serious situation, the Board called an emergency special meeting which was conducted in compliance with Kentucky's Open Meetings Law on January 28, 2014. As a result of that meeting, the undersigned were authorized to respond on behalf of the Board to the Governor's recommended fund transfers through this letter.

While the Board has repeatedly emphasized this fact with your office in the past, it needs to be restated: the Board receives **no** General Funds. Our agency is entirely self-funded from fees collected from our licensees and applicants, and these funds are deposited into the Restricted Agency Fund account as required by statute. Specifically, KRS 327.080(1) provides:

"All fees received by the board and collected under this chapter... shall be deposited with the State Treasurer and credited to the revolving fund of the board, a trust and agency fund, to be used by the board in defraying



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the costs and expenses of the board in the administration of the provisions of this chapter. ***No part of this fund shall revert to the general fund of the Commonwealth.***"

(Emphasis added.)

The Board is acutely aware of the difficulties which the present economic climate has created in meeting the fiscal needs of our great Commonwealth. Additionally, the Board is not unsympathetic toward those who are assigned the challenging task of deciding how these needs should best be met. As demonstration of a shared partnership commitment with state policy makers, the Board has earned a remarkable reputation of sound management, conservative spending, and responsible decision making in the performance of public protection. Moreover, and in the true spirit of collaboration, during the past several years the Board has developed a strong working relationship with members of your staff to help ensure that the Board meets its statutory mandate of appropriate licensing and regulatory enforcement while also making every reasonable effort to both reduce and delay spending to help conserve its non-tax dollars.

As you and your staff members are aware, this Board's consistent approach to responsible fiscal management has typically resulted in an operating surplus at the end of the established budget cycles. This result serves in stark contrast to several other regulatory boards and agencies, many of which have recently received notice from your office that no fund transfers to their budgets are planned in FY 2014-2016. The impression created by this disparate treatment, of course, is that those boards and agencies which have exercised fiscal restraint to help create some cash balance to cover judgments, legal expenses, and other unanticipated operating costs, like this Board, are effectively being penalized through the fund transfer process -- a process which originally was proposed to address only an emergency setting, but since has assumed status of a normal part of the budgeting process -- while those boards and agencies which have failed to demonstrate similar restraint are being exempted from this same process. The inequity created by this disparate application of the fund transfer process is undeniable, and it sends exactly the wrong message to those boards, like this Board, which devote appreciable, consistent effort to function and thrive within its means.

With the General Assembly's decision to sweep our restricted, non-tax dollars in 2009 in the amount of \$175,000, the budget projection for the Board beginning July 2012 reflected a deficit of \$180,000. As a direct consequence of this fund transfer, therefore, the Board was forced to seek and obtain an increase in its licensure application and renewal fees through an amendment to our administrative regulation so our budget would carry the Board through to the 2013 biennial renewal without bankrupting the Board or compelling it to request General Fund revenue. The members of the Board

have expressed grave concern that, because the administrative regulation has increased our license and renewal fees and we expect to show increased revenue, the Board is simply setting itself up so the Governor's Office and General Assembly will again sweep our restricted monies and our licensees will again be "hit" with another round of fee increases. This action would be nothing less than punitive to our licensees and, if approved, it would reflect a troubling attitude by those who propose such action. The Board is very conscientious about staying within our agency's budget and reducing spending to keep our agency solvent. The Board does not want to announce to its licensees another increase in fees because the Governor and General Assembly have swept our account yet again. Simply stated, and by any measure, it is not fair to single out members of regulated professions in the Commonwealth, who already are subject to state taxation, to bear the additional burden of funding the general government of the Commonwealth by having their application and renewal fees redirected from their respective Boards to the state budget. In particular, members of the Physical Therapy profession in Kentucky have already made considerable sacrifices in their lives to position themselves to earn a fair wage in their chosen field, and the fees they pay to the Board to help ensure that public protection is maintained were pledged at the time they were paid to be used solely for this purpose.

In summary, although the Board appreciates the budget crisis and the challenges it creates for the Commonwealth, in view of the fact that the Board is entirely self-funded, the Board has already suffered a fund transfer of \$175,000 in 2009, and the Board's licensees and applicants have already been forced to pay higher fees directly attributed to the 2009 sweep of funds, we hope that this will suffice. Thus, the Board respectfully requests that no fund transfers from its Restricted Agency Account be included in the budget for FY 2014-2016.

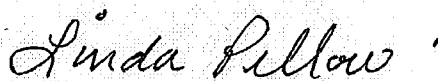
If this request simply cannot be granted and the decision for Board fund transfers in FY 2015-2016 is approved, ***in the alternative*** the Board asks that the Governor's proposed 5% cut in agency funding be applied in a uniform, consistent manner to the Board's Restricted Agency Account fund. In its current form, the Governor's recommended budget page provided by our budget analyst designates a fund transfer in FY 2015 of \$100,000, which **constitutes a cut of 7.94%** to our anticipated total restricted funds. The recommended fund transfer in FY 2016 of \$100,000 **constitutes a cut of 11.65%** to our anticipated total restricted funds. These percentages are grossly disproportionate to the 5% funding cut announced by the Governor in his budget address that was to be applied to state agencies. If the Board is to have fund transfers approved for FY 2015-2016, we urgently request that the amounts of these transfers not exceed the 5% rate proposed by the Governor to be applied uniformly across the Commonwealth's agencies. To this end, we specifically request that the Board's fund transfer for **FY 2015 be reduced from \$100,000 to \$62,980**, an adjusted rate of 5%, and that the Board's fund transfer for **FY 2016 be reduced from \$100,000 to \$44,796**, which again is an adjusted rate of 5%.

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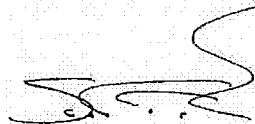
Only if the amounts of the Board's fund transfers are established at a rate that does not exceed the rate established for other agencies may any sense of fairness be generated through this process. Asking this Board to do more than its fair share will only engender distrust in those assigned the task of solving problems in an effective, responsible and equitable manner. Surely this cannot be the intent of our appointed and elected leaders who wish to observe and uphold the best interests of the Commonwealth.

Thank you for considering these requests. Please contact us if you have any questions.

Sincerely,



Linda Pillow, PT  
Board Chair



Scott D. Majors  
Executive Director

C: Kara Smothermon, OSBD Budget Analyst  
Board Members  
Board Counsel